

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

Richard Allen Smuda,

Plaintiff,

-VS-

Leann Bertsch, Director, North Dakota  
Department of Corrections and  
Rehabilitation, in her official capacity,  
et al.,

Defendants.

Case No. 3:16-cv-335

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge.<sup>1</sup> The Report and Recommendation recommends that the defendants' motions to dismiss for insufficient service of process be denied; that the plaintiff's motions for default judgment be denied; and the plaintiff's motion to rule on the aforementioned pending motions be granted. No party has filed objections to the Report and Recommendation within the prescribed time period. Upon consideration, the court hereby adopts the Report and Recommendation in its entirety.

For the reasons set forth in the magistrate judge's Report and Recommendation, the defendants' motions to dismiss for insufficient service of process<sup>2</sup> are **DENIED**; the plaintiff's motions for default judgment<sup>3</sup> are **DENIED**; and the plaintiff's motion to rule

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<sup>1</sup> Doc. #63.

<sup>2</sup> Docs. #33 & #40.

<sup>3</sup> Docs. #43 & #45.

on the identified pending motions<sup>4</sup> is **GRANTED**.

**IT IS SO ORDERED.**

Dated this 20th day of September, 2017.

/s/ Ralph R. Erickson  
Ralph R. Erickson, District Judge  
United States District Court

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<sup>4</sup> Doc. #51.